

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY**

ANDREW THOMAS

Plaintiff,

vs.

PERMAFLOOR, LLC; PERMAFLOOR  
SOUTHEAST, LLC; PERMAFLOOR  
KEYSTONE, INC.; DREW (last name  
unknown), individually; JASON HIECKE,  
individually, and CHRISTOPHER  
ROSWELL, individually,

Defendants.

Civil Case No. 1:19-CV-13415-NLH

CIVIL ACTION

**DEFENDANTS, PERMAFLOOR, LLC, PERMAFLOOR KEYSTONE, INC. AND  
CHRISTOPHER ROSWELL'S ANSWER TO PLAINTIFF'S COMPLAINT**

Defendants, Permafloor Keystone, Inc., Permafloor, LLC and Christopher Roswell by  
way of Answer to plaintiff's Complaint states:

**NATURE OF CASE**

1. It is admitted that plaintiff has filed a Complaint in the United States District Court for the District of New Jersey and alleging various causes of action. Defendants deny that, at any time or in any way, they discriminated against or retaliated against the plaintiff. Further, to the extent that the allegation of this paragraph calls for a legal conclusion, no response is necessary and plaintiff is left to his proofs.

**JURISDICTION AND VENUE**

2. The allegation of this paragraph call for a legal conclusion and, therefore, no response is necessary and plaintiff is left to his proofs.

3. The allegation of this paragraph call for a legal conclusion and, therefore, no response is necessary and plaintiff is left to his proofs.

4. It is admitted that plaintiff filed a Charge with the United States Equal Employment Opportunity Commission. Defendants can neither admit nor deny the remaining allegation of this paragraph and plaintiff is left to his proofs.

5. After reasonable investigation, answering defendants can neither admit nor deny the allegation of this paragraph and plaintiff is left to his proofs.

6. The allegation of this paragraph call for a legal conclusion and, therefore, no response is necessary and plaintiff is left to his proofs.

7. The allegation of this paragraph call for a legal conclusion and, therefore, no response is necessary and plaintiff is left to his proofs.

#### **THE PARTIES**

8. After reasonable investigation, answering defendants can neither admit nor deny the allegation of this paragraph and plaintiff is left to his proofs.

9. It is admitted that defendant Permafloor, LLC is a limited liability company. The remaining allegations of the paragraph can neither be admitted nor denied, and plaintiff is left to his proofs.

10. The allegations of this paragraph are not directed at the answering defendants and, therefore, no response is necessary and plaintiff is left to his proofs.

11. Denied as stated. Notwithstanding the preceding, it is admitted that Permafloor Keystone, Inc. is a corporation. The remaining allegations of the paragraph can neither be admitted nor denied, and plaintiff is left to his proofs.

12. Denied.

13. After reasonable investigation, answering defendants can neither admit or deny the allegations of this paragraph and plaintiff is left to his proofs.

14. The allegations of this paragraph are not directed at answering defendant and, therefore, no response is necessary and plaintiff is left to his proofs.

15. Denied.

16. Denied.

17. Upon information and belief, it is admitted that defendant Jason Heicke is an individual. Defendants can neither admit nor deny the remaining allegations of this paragraph and plaintiff is left to his proofs.

18. Denied as stated. Hiecke was employed by Permafloor Keystone, Inc.

19. Denied.

20. Admitted.

21. Denied as stated.

22. Admitted.

**MATERIAL FACTS**

23. Denied as stated. It is admitted that defendant, Permafloor Keystone, Inc. employed plaintiff as a laborer.

24. Denied.

25. Denied.

26. Denied.

27. The allegations of this paragraph are not directed at answering defendant and, therefore, no response is necessary and plaintiff is left to his proofs.

28. After reasonable investigation, answering defendants can neither admit nor deny the allegation of this paragraph and plaintiff is left to his proofs.

29. After reasonable investigation, answering defendants can neither admit nor deny the allegation of this paragraph and plaintiff is left to his proofs.

30. After reasonable investigation, answering defendants can neither admit nor deny the allegation of this paragraph and plaintiff is left to his proofs.

31. Denied.

32. Denied.

33. After reasonable investigation, answering defendants can neither admit nor deny the allegation of this paragraph and plaintiff is left to his proofs.

34. After reasonable investigation, answering defendants can neither admit nor deny the allegation of this paragraph and plaintiff is left to his proofs.

35. After reasonable investigation, answering defendants can neither admit nor deny the allegation of this paragraph and plaintiff is left to his proofs.

36. After reasonable investigation, answering defendants can neither admit nor deny the allegation of this paragraph and plaintiff is left to his proofs.

37. After reasonable investigation, answering defendants can neither admit nor deny the allegation of this paragraph and plaintiff is left to his proofs.

38. After reasonable investigation, answering defendants can neither admit nor deny the allegation of this paragraph and plaintiff is left to his proofs.

39. Denied.

40. After reasonable investigation, answering defendants can neither admit nor deny the allegation of this paragraph and plaintiff is left to his proofs.

41. After reasonable investigation, answering defendants can neither admit nor deny the allegation of this paragraph and plaintiff is left to his proofs.

42. After reasonable investigation, answering defendants can neither admit nor deny the allegation of this paragraph and plaintiff is left to his proofs.

43. After reasonable investigation, answering defendants can neither admit nor deny the allegation of this paragraph and plaintiff is left to his proofs.

44. After reasonable investigation, answering defendants can neither admit nor deny the allegation of this paragraph and plaintiff is left to his proofs.

45. After reasonable investigation, answering defendants can neither admit nor deny the allegation of this paragraph and plaintiff is left to his proofs.

46. After reasonable investigation, answering defendants can neither admit nor deny the allegation of this paragraph and plaintiff is left to his proofs.

47. After reasonable investigation, answering defendants can neither admit nor deny the allegation of this paragraph and plaintiff is left to his proofs.

48. Denied.

49. Denied.

50. Denied.

51. Denied.

52. Denied.

53. Denied.

54. Denied.

55. After reasonable investigation, answering defendants can neither admit nor deny the allegation of this paragraph and plaintiff is left to his proofs.

56. Denied.

57. Denied.

58. Admitted.

59. Denied.

60. After reasonable investigation, answering defendants can neither admit nor deny the allegation of this paragraph and plaintiff is left to his proofs.

61. After reasonable investigation, answering defendants can neither admit nor deny the allegation of this paragraph and plaintiff is left to his proofs.

62. Denied.

63. Admitted.

64. Denied.

65. Denied.

66. Denied.

67. Denied as stated. Notwithstanding the preceding, it is admitted that on or about February 21, 2018 plaintiff's employment with defendant Permafloor Keystone, Inc. was terminated.

68. Denied.

69. Denied.

70. Denied.

71. Denied.

72. After reasonable investigation, answering defendants can neither admit nor deny the allegation of this paragraph and plaintiff is left to his proofs.

73. Denied.

74. Denied.

75. Denied.

76. Denied.

77. Denied.

78. Denied.

79. Denied.

80. Denied.

81. Denied.

82. Denied.



**COUNT ONE**

83. The answering defendant hereby repeats each and every response to any and all allegations of the previous paragraphs and incorporate them by reference as if fully set forth herein at length.

84. Plaintiff fails to assert any “facts” in this paragraph and, therefore, no response is necessary and plaintiff is left to his proofs.

85. The allegations of this paragraph call for a legal conclusion and, therefore, no response is necessary and plaintiff is left to his proofs.

86. Denied.

**COUNT TWO**

87. The answering defendant hereby repeats each and every response to any and all allegations of the previous paragraphs and incorporate them by reference as if fully set forth herein at length.

88. The allegations of this paragraph call for a legal conclusion and, therefore, no response is necessary and plaintiff is left to his proofs.

89. Denied.

90. Denied.

91. Denied.

**COUNT THREE**

92. The answering defendant hereby repeats each and every response to any and all allegations of the previous paragraphs and incorporate them by reference as if fully set forth herein at length.

93. The allegations of this paragraph call for a legal conclusion and, therefore, no response is necessary and plaintiff is left to his proofs.

94. Denied.

95. Denied.

96. Denied.

**COUNT FOUR**

97. The answering defendant hereby repeats each and every response to any and all allegations of the previous paragraphs and incorporate them by reference as if fully set forth herein at length.

98. The allegations of this paragraph call for a legal conclusion and, therefore, no response is necessary and plaintiff is left to his proofs.

99. Denied.

100. Denied.

101. Denied.

102. Denied.

**COUNT FIVE**

103. The answering defendant hereby repeats each and every response to any and all allegations of the previous paragraphs and incorporate them by reference as if fully set forth herein at length.

104. The allegations of this paragraph fail to assert any allegations of “fact” and, therefore, no response is necessary and plaintiff is left to his proofs.

105. The allegations of this paragraph call for a legal conclusion and, therefore, no response is necessary and plaintiff is left to his proofs.

106. Denied.

107. Denied.

**COUNT SIX**

108. The answering defendant hereby repeats each and every response to any and all allegations of the previous paragraphs and incorporate them by reference as if fully set forth herein at length.

109. The allegations of this paragraph fail to assert any allegations of “fact” and, therefore, no response is necessary and plaintiff is left to his proofs.

110. The allegations of this paragraph call for a legal conclusion and, therefore, no response is necessary and plaintiff is left to his proofs.

111. Denied.

112. Denied.

WHEREFORE, defendants demand judgment dismissing plaintiff's Complaint with prejudice or such other relief as the Court deems equitable and just.

**SEPARATE DEFENSES**

1. Plaintiff's Complaint fails to state a cause of action upon which relief can be granted.
2. Plaintiff's actions are barred, in whole or in part, by the applicable Statute of Limitations.
3. The practices of the answering defendants are now, and have been, during the period of time referred to in the Complaint, conducted in all respects in accordance with state and federal law, regulations and constitutions.
4. Plaintiff has, and continues to have, failed to mitigate damages alleged.
5. Plaintiff's claims are barred by the Doctrines of Laches, Estoppel and Waiver.
6. Plaintiff's claims are barred, in whole or in part, by the Doctrine of Election of Remedies.
7. Answering defendants acted, at all relevant times, with good faith and fair dealing, without fraud or malice.

8. Plaintiff was not deprived of any rights, privilege or immunity secured by the United States Constitution or any act of Congress.

9. Answering defendants did not engage in any discriminatory practice against plaintiff during the time period in question.

10. If plaintiff suffered injuries and damages, as described in the Complaint, which are denied, that injuries were caused or attributed to by conditions of which answering defendants had no control and for which answering defendants are not responsible.

11. The Complaint is barred, in whole or in part, by the New Jersey Worker's Compensation Act, N.J.S.A. 34:15-8.

12. Answering defendants deny violating any state statute or regulation.

13. Plaintiff's Complaint is barred by plaintiff's failure to fully exhaust all administrative remedies.

14. Plaintiff's Complaint should be dismissed because plaintiff has sustained no actual damages as a result of the actions of defendants.

15. Defendants, at all times, maintained a policy prohibiting discrimination and retaliation in the workplace, and plaintiff failed to avail himself of the policies which were in place.

**RESERVATION OF DEFENSES AND OBJECTIONS**

Defendants hereby reserve the right to interpose such other defenses and objections as the continuing investigation may disclose.

**JURY DEMAND**

Defendants hereby demand a trial by jury as to all issues.

**CERTIFICATION**

Pursuant to Local Federal Rule of Civil Procedure 11.2, I hereby certify that the matter in controversy is not the subject of any other action pending in any court, arbitration, or administrative proceeding.

MARSHALL, DENNEHEY, WARNER,  
COLEMAN & GOGGIN

Dated: 7-11-19

By: /s/ Lawrence Berg

(Electronic signature for E-Filing purposes)

LAWRENCE BERG, ESQUIRE

15000 Midlantic Drive, Suite 200

Mount Laurel, NJ 08054

☎ 856-414-6000      ☎ 856-414-6077

✉ lbberg@mdwgcg.com

Attorney for Defendants,

Permafloor Keystone, Inc., Permafloor, LLC

and Christopher Roswell

Our file no. 21256-01626